

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JONATHAN HADNOTT, JESSIE HADNOTT,)	
KEVIN HUNT, and BRANDELL BETTS,)	
)	
Plaintiffs,)	Case No. 07 C 6754
)	
v.)	Judge David H. Coar
)	
MICHAEL KELLY, MARC JAROCKI,)	Magistrate Judge Schenkier
PATRICK GILMORE, and CITY OF)	
CHICAGO,)	
)	
Defendants.)	

**PLAINTIFFS' MOTION FOR ORDER COMPELLING DEFENDANT
MICHAEL KELLY TO APPEAR FOR A DEPOSITION ON A DATE CERTAIN**

Plaintiffs JONATHAN HADNOTT, JESSIE HADNOTT, KEVIN HUNT, and
BRANDELL BETTS, by and through their attorney, Irene K. Dymkar, hereby move this
Court to enter an order compelling defendant MICHAEL KELLY to appear for a deposition
on a date certain. In support of their motion, plaintiffs state:

- 1) This action was commenced by the filing of a complaint alleging a cause of
action under the Civil Rights Act of 1871 (42 U.S.C. §1983) to redress deprivations of the
civil rights of plaintiffs through acts and/or omissions of defendants committed under color
of law.
- 2) By leave of the Court, plaintiffs filed an amended complaint on July 16, 2008
(Document # 53), naming MICHAEL KELLY as one of the previously unknown defendant
police officers. On July 24, 2008, plaintiffs served a summons and complaint on defendant
KELLY by service on the Office of Legal Affairs of the Chicago Police Department, the
administrator designated to receive service (return of service at Document # 58).

3) Upon the representation of defense counsel Ashley C. Kosztia that MICHAEL KELLY is being deployed by military service to Afghanistan on August 21, 2008, and plaintiff's oral motion, the Court ruled on July 16, 2008, that the deposition of defendant KELLY should take place by August 21, 2008. Ms. Kosztia further informed the Court that defendant KELLY would be waiving service of the summons and complaint.

4) After I made several inquiries as to when the deposition could be scheduled, Ms. Kosztia wrote a letter to me dated July 29, 2008, in which she stated that another attorney in her office was meeting with defendant KELLY on August 1, 2008, and would file an appearance immediately thereafter.

5) On August 1, 2008, I asked Ms. Kosztia at a deposition in an unrelated case when I would be hearing from the other attorney in her office and asked her to identify this other attorney. Ms. Kosztia said she had no information about scheduling the deposition and refused to identify the attorney.

6) I spoke to Ms. Kosztia again on August 4, 2008, at a continuation of the August 1 deposition in the unrelated case and expressed concern that time was passing and I had not heard from the other attorney in her office. Ms. Kosztia said she would "look into it."

7) As of the end of the business day today, August 7, 2008, I have heard neither from Ms. Kosztia, nor from the unidentified attorney in her office who met with defendant KELLY on August 1, 2008.

8) Plaintiffs will be greatly prejudiced if they cannot take the deposition of defendant KELLY before his military deployment that is certain to last at least a year.

Plaintiffs therefore ask the Court to compel defendant KELLY to appear for a deposition before he leaves town and further ask the Court to set a date certain for said deposition.

WHEREFORE, plaintiffs respectfully request that the Court to grant an order compelling defendant MICHAEL KELLY to appear for a deposition on a date certain before August 21, 2008.

Dated: August 7, 2008

/s/ Irene K. Dymkar
Irene K. Dymkar

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